



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

MAY 31 1994

Mr. James Salvaggio, Director
Commonwealth of Pennsylvania
Department of Environmental Resources
Bureau of Air Quality Control
P.O. Box 8468
Harrisburg, PA 17105-8468

Dear Mr. Salvaggio:

In your letter dated May 20, 1994, you requested immediate attention to two critical issues related to the clean fuel fleet program for the Philadelphia nonattainment area. In order to respond to your request adequately and prior to the proposed July Environmental Quality Board meeting, we need additional information on the equivalency of the proposed use of a point system replacement for EPA's credit program.

The first issue involves allowing fleet operators to use a vehicle equivalency "point" system to meet the purchase requirements of section 246 of the Clean Air Act (Act). The Act and the EPA credit rule (58 FR 11898, March 1, 1993), layout a basic framework for state credit programs. We believe the agency has little discretion at this point to approve a program which diverges from these basic requirements. Within this basis statutory and regulatory framework, we may be able to approve different versions of the basic credit program as long as we are convinced that they will result in the same number of fleet vehicles being purchased by a fleet operator/owner and the same number of credits or "points", being earned as would have occurred in the basic program. In order for EPA to adequately review Pennsylvania's proposed program as compared with the basic program, Pennsylvania must provide a demonstration with examples, comparing these two programs.

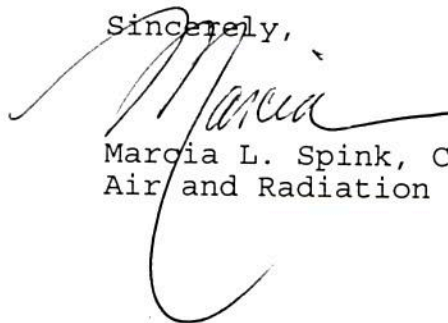
The second issue which involves the calculation of credit values. With regard to the use of credit tables, the EPA credit rule provides the states flexibility in calculating credits by providing two tables, one that uses NMOG and the other that uses NMOG and NOx. Pennsylvania has the flexibility to use Table C94-2 (NMOG + NOx) in lieu of Table C94-1 (NMOG). However, section 88.304-94 (c) (4) indicates that states using Table C94-2 (NMOG + NOx) must provide adequate justification based upon air quality benefits. If EPA approves the use of Table C94-2, the state must use the table exclusively in determining LDV and LDT credit

values for vehicles in the subject area. Both Table C94-1 and C94-2 provide credit values by vehicle type and weight class. Your proposal to treat all LDV/LDT the same and not distinguish vehicle weight class does not appear to be consistent with the Act and the EPA credit rule. However, as stated above, it would be helpful for us to have an example demonstrating that not distinguishing vehicle weight classes has the same result in credit or "point" values and vehicle purchases as the EPA basic program.

We commend the efforts of Pennsylvania to work with neighboring states to develop consistent fleet programs. Although, multi-state program consistency is not a mandatory requirement, it is strongly recommended. On June 10, 1994, the states have been invited to a second follow-up meeting to address consistency in multi-state nonattainment areas. At the initial meeting, sponsored by MARAMA on May 4, 1994, the state agencies, including Pennsylvania, agreed to provide copies of their regulations (including rough drafts). This way the states could compare what their neighbors were doing and work toward consistency where practical. EPA and DOE would be available at this meeting to facilitate interchange.

We are aware of Pennsylvania's extended regulatory process and will work to provide you with a timely response. If you have any questions, please contact Kelly Sheckler, at (215) 597-6863.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marcia", with a long, sweeping underline that extends below the printed name.

Marcia L. Spink, Chief
Air and Radiation Programs Branch



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 16 1994

OFFICE OF
AIR AND RADIATION

Honorable Howard Yerusolim
Secretary
Pennsylvania Department of
Transportation
1200 Transportation and Safety
Building
Harrisburg, PA 17120

Dear Mr. Yerusolim:

At the recent North American Motor Vehicle Emissions Control Conference I stressed the importance of vehicle maintenance in assuring full and successful implementation of current and future vehicle emissions Inspection/Maintenance (I/M) programs. Understandably, much of the effort to date has focused on getting inspection programs in place to meet the requirements of the Clean Air Act and federal I/M regulations. Those efforts seem to be largely successful with many states gearing up to implement the improved inspection program. While improved inspections are clearly important, it is critical to place emphasis on the "M" side of the program as well. The assurance of effective vehicle repairs and consumer satisfaction will be the key to achieving program acceptance as well as our ultimate goal of air quality improvements. Effective vehicle repairs will be facilitated through careful planning, development, and implementation of maintenance requirements, such as technician training and certification programs, as well as repair facility performance monitoring and recognition programs. EPA is fully committed to assisting the states in these efforts.

In this regard, EPA is planning a workshop to be held in mid-March, 1994. This workshop will focus on implementation of the 1995 I/M requirements with special emphasis on the maintenance side of I/M. The workshop will also assist the state and local officials in preparing to meet the specific maintenance requirements for I/M, including the logistics of technician training, establishing repair hotlines, performance tracking of repair facilities, as well as other initiatives. These efforts are aimed at assuring a sufficient supply of trained technicians as well as informed consumers by the 1995 regulatory deadline for startup of the new I/M programs.



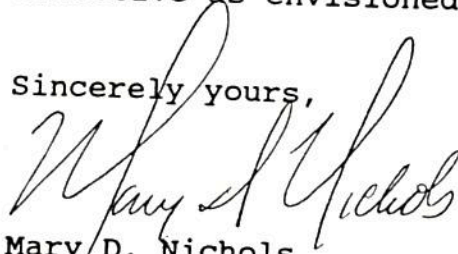
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To facilitate and focus the workshop efforts as well as the overall implementation of enhanced I/M, we are requesting that each state or local agency designate a maintenance contact, if one does not already exist. This person will participate in the workshop on behalf of the program and also serve as the vehicle maintenance coordinator. This will help assure an efficient, coordinated maintenance effort. The coordinator would be responsible for organizing state and local interest groups and agencies, including auto repair industry groups, public and private automotive educators, consumer groups, agencies having a role in the I/M program.

Since we are dealing with tight time constraints, we would appreciate receiving notification of the coordinator in your program as soon as possible. If we do not hear from you by March 1, 1994, we will followup with your staff regarding selection of a coordinator. Please have your staff provide the name, address, and phone number of your coordinator, and questions about workshop preparations, to Christine Mikolajczyk in our Ann Arbor, Michigan office at (313) 668-4403.

We appreciate your continued cooperation in our efforts to make the I/M programs as effective as envisioned in the Clean Air Amendments of 1990.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Mary D. Nichols".

Mary D. Nichols
Assistant Administrator
for Air & Radiation

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460
FAX

OPTIONAL FORM 29 (7-90)

FAX TRANSMITTAL

To <i>Brian P. Kelly</i> Dept./Agency	From <i>John C. Adams</i> Phone <i>260-7647</i>
Fax # ←	Fax # <i>215-597-1129</i>
NSN 7540-01-317-7388	5099-101 GENERAL SERVICES ADMINISTRATION

MAR 14 1994

OFFICE OF
AIR AND RADIATION

Honorable Howard Yerusolim, Secretary
Pennsylvania Department of Transportation
1200 Transportation & Safety Building
Harrisburg, Pennsylvania 17120

Dear Secretary Yerusolim:

A great deal of conflicting information has been reported regarding the recent legislative conference committee approval of legislation establishing an enhanced vehicle inspection and maintenance (I/M) program for California. I appreciate the opportunity to clarify the details of the program being considered in California. First and foremost let me confirm that the California program represents a full commitment to meet EPA's performance standards and deadlines.

The legislation approved by the conference committee outlines a default hybrid inspection program that requires most vehicles to go to test-only facilities, but allows less polluting vehicles the option of going to test-and-repair stations. By adopting special program features outlined in the enclosed program description, California can meet the performance standard by testing vehicles six years old and older in test-only facilities; this group accounts for about 60 percent of the California vehicle fleet. Because EPA regulations allow a phase-in of testing, only 15 percent of the California fleet will be subject to testing at test-only facilities in 1995. Most vehicles less than six years old could (at the owner's option) be tested at test-and-repair stations.

California's hybrid approach necessitates the adoption of very stringent cutpoint standards that will result in a very high failure rate of 40 percent for vehicles subject to test-only inspections -- double the 20 percent failure rate assumed in programs such as Pennsylvania's. In addition, the retention of test-and-repair facilities greatly increase the cost of enforcement and monitoring activities. California currently operates the most extensive and expensive enforcement program in the country at the cost of \$7 per car. This fee is expected to sharply increase to accommodate the additional enforcement activities required in California's legislation.

California's program is also more stringent than Pennsylvania's in its elimination of cost waivers for high emitting and tampered vehicles. California also plans to conduct a multi-million dollar study to evaluate the effectiveness of remote sensing devices, alternatives to the IM240 test procedures, and additional approaches to identify high emitting vehicles for test-only inspections.

EPA anticipates that California's program will be significantly more expensive than a program like the one being implemented in Pennsylvania. Test-and-repair stations will be required to purchase new equipment at the cost of at least \$30,000 -- greatly limiting the number of stations which will be able to participate. With two parallel systems, the cost to motorists will also be higher. We estimate that the cost per test in the test-and-repair portion of the program will rise from the current average of \$32 per test to an average of \$50 or more per test.

I encourage you to review the details of the California program within the context of consumer cost and administrative complexity. Given the severity of the air quality problems confronting Pennsylvania, and the progress that you have already made toward implementing a cost-effective approach, I encourage to continue to move forward expeditiously with your current consumer-oriented program.

Sincerely,



Mary D. Nichols
Assistant Administrator
for Air and Radiation

Enclosure

March 14, 1994 (Revised Version)

CALIFORNIA I/M: DETAILS ON THE I/M PROGRAM AGREEMENT**OVERVIEW**

On Wednesday, March 9th, a conference committee of the California State Legislature voted unanimously to approve I/M legislation that EPA believes is approvable. The legislation outlines a hybrid inspection program that requires vehicles to go to test-only facilities, but also allows less polluting vehicles the option of going to test-and-repair stations. The California program is a full commitment to meet EPA's performance standard and implementation deadlines.

California will also conduct a multi-million dollar study to evaluate the effectiveness of remote sensing devices, alternatives to IM240, and approaches (other than using model year) to identify high emitting vehicles for test-only inspections. EPA retains the authority to review and determine the adequacy of the Smog Check program as part of the State Implementation Plan revision and rule making process.

PROGRAM DETAILS

California can meet EPA's performance standard by testing all cars six years old and older in test-only facilities (approximately 60 percent of the vehicle fleet, or 30 percent annually), while giving newer cars the option of going to a test-and-repair station. As allowed by EPA regulations, California will begin phasing in its program by sending 30 percent of cars through test-only in 1995 (fifteen percent on an annual basis). The following describes how California can meet the performance standard:

Testing

- Centralized, test-only inspection of the following vehicles:
 - All 1966 and newer vehicles starting with the 6th anniversary and thereafter
 - All vehicles at change of ownership, regardless of age
 - "Gross polluters," tampered vehicles, and those eligible for a waiver - as identified by remote sensing or a test-and-repair station test, regardless of age
- Test-and-repair inspections are allowed (vehicle owner's option) at ages 2 and 4 years

Waivers

- No waivers for "gross polluters" and upon initial registration of out-of-state vehicles
 - Gross polluters and new registrations have to be fixed, regardless of cost
 - Gross polluters must repair any defect that could damage emission controls
- No repeat waivers can be given to any vehicle (i.e., two test cycles in a row)
 - Waivers may be given once the \$450 minimum is spent on non-gross polluters
 - Waived vehicle must be repaired to meet standards or scrapped by the next anniversary
- Waivers cannot be issued at test-and-repair stations

CALIFORNIA I/M: DETAILS ON THE I/M PROGRAM AGREEMENT

Page two

Coverage

- Test-only component assumes
 - All 1966 and newer cars and trucks up to 14,000 pounds GVWR
 - IM240, purge, and pressure testing and a comprehensive visual check
- Test-and-repair component assumes
 - All 2 and 4 year old cars and trucks up to 14,000 pounds GVWR
 - RG240 or 4-mode ASM test, purge and pressure test, and comprehensive visual check

Standards

- Test-only component assumes the following standards
 - For 1981+ vehicles: 0.6 grams per mile (gpm) HC, 10 gpm CO, 1.5 gpm NOx
 - For 1966-1980 cars: minimum failure rate of 40%
- Test-and-repair component assumes stringent cutpoint standards for 2 and 4 year old vehicles

Costs

- Test-and-repair costs
 - Test cost is estimated to be considerably higher than today's \$32 average cost for California motorists -- estimates range as high as \$50 per test or more
 - \$30,000 investment required to be licensed, plus higher operating costs
 - Oversight cost of a minimum of \$10 per car
- Test-only costs estimated at \$30-\$40
- Repair costs higher due to waiver restrictions

Other Additional Efforts

- Extensive use of remote sensing devices
- Most expensive enforcement program effort in the country

Emission Reduction Benefits

- Program meets enhanced performance standard with discount for test-and-repair program. In contrast, many areas implementing 100% test-only are designing programs to exceed the performance standard, thus reducing the emission reduction burden for additional stationary and mobile source controls)

March 14, 1994 (Revised Version)
**CALIFORNIA I/M: QUESTIONS AND ANSWERS ON THE I/M PROGRAM
AGREEMENT**

OVERVIEW

On Wednesday, March 9th, a conference committee of the California State Legislature voted unanimously to approve I/M legislation that EPA believes is approvable. The legislation outlines a hybrid inspection program that requires vehicles to go to test-only facilities, but also allows less polluting vehicles the option of going to test-and-repair stations.

QUESTIONS AND ANSWERS

California's Program and EPA Regulations

1. Is this some sort of a "sweetheart" deal for California?

No. The California program is a full commitment to meet EPA's performance standard and implementation deadlines.

2. Does the "50% credit discount" apply to the test-and-repair portion?

Yes. The credit discount is applied to the vehicles going to test-and-repair stations.

3. Why is California able to have a hybrid program that combines test-only and test-and-repair?

The program design that allows California to implement both test-only and test-and-repair is one that differs significantly from the test-only programs adopted in other states. The program design includes the following elements:

- a. vehicles will fail their vehicle inspections more frequently, due to much tighter "cutpoints;" these tougher inspection requirements make up for the credit loss from the test-and-repair program;
- b. gross polluting and tampered vehicles will not be allowed any opportunity to use the \$450 cost waiver; thus, these vehicles will have to be either scrapped, or repaired regardless of cost;
- c. California commits to extensively use remote sensing devices to conduct off-cycle testing of gross polluters; and, the state plans to implement the country's most expensive enforcement program.

California's Up Front Program Commitment

1. What percent of cars are required to go to test-only? All the press accounts say 15% -- is this accurate?

Press accounts stating that California will only send 15% of the vehicles to test-only are not accurate. California has made a full commitment to meet the EPA performance standard. Starting in 1996, California can meet EPA's performance standard by testing all cars six years old and older in test-only facilities (approximately 60 percent of the vehicle fleet, or 30 percent annually), while allowing newer cars the option of either going to a test-only or a test-and-repair station. As allowed by EPA regulations, California will begin phasing in its program by sending 30 percent of cars through test-only in 1995 (fifteen percent on an annual basis).

2. Why can 2 and 4 year old vehicles go to test-and-repair?

These vehicles are very clean and will fail at low rates. Three reasons contribute to why these vehicles tend to be cleaner: (a) newer cars have yet to deteriorate, (b) they meet tougher emission tailpipe standards, and (c) many are under warranty, thus providing an incentive for prompt repair work. Thus, the emissions reduction loss associated with sending these vehicles to test-and-repair is small. These losses are made up by using tighter "cutpoints" for all cars including heavy-duty trucks. (Because of these lower failure rates, some other states have exempted newer vehicles from I/M requirements.)

Consumer and Business Impacts

1. What is the failure rate that will be expected from the California hybrid program as compared to EPA's model program?

The hybrid program assumes tighter cutpoints for all vehicles. The estimated tailpipe emissions test failure rate for pre-1981 vehicles is 40% -- significantly higher than assumed in the model program. Additionally, the cutpoints assumed for 1981 and newer vehicles will be phased in to tighter levels than EPA's model program (i.e., 0.6/10/1.5 grams per mile (gpm) HC/CO/NOx vs. 0.8/15/2 gpm).

2. How much is this going to cost consumers?

In the test-and-repair portion of California's program, test costs will be considerably higher than today's \$32 average cost for California motorists -- estimates range as high as \$50 per test or more. A key contributor to these costs will be California's enforcement efforts for test-and-repair stations -- the most expensive enforcement program in the country. In addition, California motorists will have to pay for two systems: a test-only system with reduced economies of scale (fewer vehicles going to

test-only), and a test-and-repair system with the nation's most costly enforcement program.

Test-only testing is expected to cost in the range of \$30-40 per test. By comparison, motorists in several other states switching to a test-only program will likely pay about \$20 for a test-only test. In addition, repair costs will be higher for some consumers -- gross polluters and tampered vehicles will have to be either scrapped, or repaired regardless of cost.

3. What is the definition of a gross polluter?

The California legislation leaves it to the BAR to define gross polluters.

4. What will it cost businesses?

Current test-and-repair stations will need to spend about an estimated \$30,000 in equipment upgrades, plus incur higher operating costs.

Demonstration Program Questions

1. California is conducting a demonstration study -- how long will the study last?

California has committed to complete the study by 12/31/94.

2. What is California going to study in the demonstration program?

California will conduct a multi-million dollar study to evaluate the effectiveness of remote sensing devices, alternatives to IM240, and approaches (other than using model year) to identify high emitting vehicles for test-only inspections.

3. What is EPA's role?

EPA has agreed to work with California to review their study's progress and to evaluate the study results. EPA and California staff have jointly designed the study's scientific protocol. EPA retains the authority to review and determine the adequacy of the Smog Check program as part of the State Implementation Plan revision and rule making process.

4. How might California use the study results?

California will have the opportunity to demonstrate through the study that it can modify its I/M program and still meet the Clean Air Act performance standard and deadlines.

Considerations for Other States

How does California's program differ from the program adopted in other enhanced I/M states?

California's program will result in higher costs to motorists, in comparison to other states implementing 100% test-only programs. California will have to operate the most extensive and expensive enforcement program in the country (today, California already spends \$6-7 per car on enforcement; these costs will increase). California motorists with gross polluting or tampered vehicles will not be eligible for a cost waiver.

Sanctions

What is the status regarding sanctions and California?

On December 30, 1993, EPA found that California had failed to adequately meet the EPA's November 15, 1993 deadline for an I/M program submittal. That finding triggered an 18 month mandatory sanction clock. Under guidance already issued by EPA, submittal of a complete SIP revision would stop the mandatory clock.

In January, 1994 EPA proposed to use its discretionary authority to sanction California within a period of a few months if the state did not adopt an approvable I/M program. Due to the devastating earthquake that hit Southern California later in January, EPA has postponed further action toward imposing these discretionary sanctions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

Honorable Howard Yerusolim, Secretary
Department of Transportation
1200 Transportation & Safety Building
Harrisburg, Pennsylvania 17120

FEB 8 1994

Dear Mr. Yerusolim:

I am writing regarding EPA's policy on automobile inspection and maintenance (I/M) programs in light of recent reports indicating that the Pennsylvania legislature is considering introducing a bill to either rescind the Commonwealth's authority for the enhanced I/M program or to halt work on implementation of the enhanced I/M program.

In a January 15, 1993 letter, EPA notified Governor Casey that, pursuant to section 179(a) of the Clean Air Act (CAA), EPA was making a finding of failure to submit a committal I/M State Implementation Plan (SIP). The letter further stated that if Pennsylvania did not submit an I/M SIP within 18 months of the findings letter, EPA would be mandated to use its authority under section 179(a) to impose at least one sanction identified in section 179(b). The sanctions available are federal highway fund limitations and restrictions on the construction or expansion of industrial sources of air pollution.

As a result of a December 13, 1993 letter we sent to Arthur Davis, Secretary of the Department of Environmental Resources (PADER), which stated that PADER's November 5, 1993 submittal of a full SIP revision for an enhanced I/M program in Pennsylvania was determined to be administratively and technically complete, the eighteen-month sanctions clock for the lack of an I/M SIP was halted but not removed. As of December 13, 1993, 11 months had lapsed on the eighteen-month sanctions clock. If the Pennsylvania legislature were to pass a bill to rescind authority to implement an enhanced I/M program, the eighteen-month clock would be restarted with only 7 months remaining before which time EPA would be mandated to impose sanctions. This clock would restart as of the date of enactment of the legislation rescinding the statutory authority for enhanced I/M.

If the Pennsylvania legislature were to pass a bill to halt work on implementation of the enhanced I/M program, this would eviscerate the I/M SIP revision which was submitted to EPA. EPA would have no choice but to find that the November 5, 1993 I/M SIP submittal has been effectively rescinded because the submittal would no longer accurately reflect the legislative provisions for implementation of the program in the Commonwealth.

A finding of failure to submit restarting the sanctions clock is not one that Pennsylvania would want especially given all the work and resources spent to complete the I/M SIP and submit it prior to the required submittal deadline. However, EPA is poised to make this finding if the Commonwealth does halt work on I/M. The eighteen-month sanctions clock would restart as of the date of the letter from EPA determining the SIP submittal to be nullified. EPA would also have the authority to propose imposition of discretionary sanctions at the same time that the letter was sent.

In the January 24, 1994 publication of the Federal Register (59 FR 3534), EPA proposed to impose discretionary sanctions on the states of California, Indiana and Illinois for failure to submit a complete SIP revision for an I/M program. The sanctions proposed to be imposed concurrently were statewide highway funding limitations and a restrictions on the construction or expansion of industrial sources of air pollution. This notice stated that EPA would impose sanctions on May 15, 1994. On January 24, 1994 EPA Administrator Browner sent a letter to Governor Wilson of California stating that, as a result of the earthquake and the resulting damage to the highway system and the economy, EPA would push the date of imposition of discretionary sanctions on California to sometime after May 15, 1994. It must be understood that this letter did not remove the proposed imposition of sanctions on California but delayed the action **only** because of the earthquake. California must meet the requirements set forth in the federal I/M regulations and is by no means off the hook from imposition of sanctions.

EPA is prepared to enforce its authority under sections 179(a) and 110(m) of the CAA if the Commonwealth of Pennsylvania either rescinds the I/M statutory authority or halts work on the program. We strongly urge the legislature to allow work to continue on the implementation of the enhanced I/M program in the Commonwealth of Pennsylvania.

Sincerely,



Stanley L. Laskowski
Acting Regional Administrator

cc: Honorable Arthur Davis, Secretary
Department of Environmental Resources



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 24 1994

OFFICE OF
AIR AND RADIATION

Honorable Robert P. Casey
Governor
Commonwealth of Pennsylvania
225 Main Capitol Building
Harrisburg, Pennsylvania 17120

Dear Governor Casey:

Thank you for the Commonwealth's letter of December 20, 1993. I appreciate your concern that the Environmental Protection Agency (EPA) enforce its rules under the Clean Air Act consistently in all states. As you know, on January 7, 1994 EPA announced it was proposing sanctions against California, Illinois and Indiana for the states' failure to submit acceptable vehicle inspection and maintenance (I/M) plans. Let me assure you that we will not approve an I/M plan in California or any other affected states unless such plan complies with all the performance requirements of EPA's I/M rule.

We commend you on the excellent progress Pennsylvania has made in moving expeditiously to adopt a strong, cost-effective I/M program. The commonwealth was the first state in the country to submit its full I/M State Implementation Plan (SIP). The Commonwealth's commitment to a clean environment is evident and its leadership has inspired other states to move ahead with this important air pollution control strategy. As your letter indicates, if the Pennsylvania legislature were to rescind the authority for the enhanced I/M program, the Commonwealth would face sanctions under the Clean Air Act for failing to implement its SIP.

Thank you again for your comments. Feel free to contact me again if you would like to discuss this further.

Sincerely yours,

Mary D. Nichols
Mary D. Nichols
Assistant Administrator
for Air and Radiation

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

JAN 18 1994

Honorable Robert P. Casey
Governor of Pennsylvania
225 Main Capitol Building
Harrisburg, Pennsylvania 17120

Dear Governor Casey:

The Clean Air Act, as amended in 1990 (CAA), establishes a number of new requirements that must be met by areas that are designated nonattainment for the criteria air pollutants ozone and particulate matter (PM-10) and areas that are part of the ozone transport region.

We commend the Department of Environmental Resources for the State Implementation Plan (SIP) elements that have been adopted and submitted to EPA. In particular, we commend the Commonwealth for its leadership in implementing the CAA's provisions for enhanced Inspection and Maintenance of motor vehicles. We consider these SIP submittals to be a high priority and will process them as quickly as possible.

While we recognize that Pennsylvania has made substantial progress in meeting its obligations under the CAA, not all of the SIP elements due by the major milestone date of November 15, 1993 have been submitted. For those SIP elements which are the subject of today's findings, this office intends to continue to work closely with the Department of Environmental Resources to undertake all necessary efforts to ensure their submittal as soon as possible in order to avoid the implementation of sanctions and the need to promulgate Federal Implementation Plans (FIPs).

By today's letter, EPA is notifying Pennsylvania that pursuant to section 179(a) EPA has made a finding of failure to make a submittal as to the nonattainment areas and programs or program elements identified in the enclosure to this letter. The enclosure lists the program areas for which SIP submittals were due for the particular areas in Pennsylvania by November 15, 1993 and indicates those programs and areas for which EPA is making a finding of failure to submit or finding of incompleteness. In general, such findings are being made for programs or program elements for which the State failed to make any submittal or for which the Commonwealth did not adopt and/or subject to public hearing as required under sections 110(a)(2) and 110(1).

In particular, I call your attention to the transportation conformity issues associated with certain of these findings of failure to submit or of incompleteness. The enclosure details the impacts of these findings on your state's transportation plans pursuant to the requirements of the federal transportation conformity rule published on November 24, 1993.

For most of the findings of failure to submit listed in the enclosure, if Pennsylvania has not made a complete submittal of the identified program(s) within 18 months of this letter, EPA will be mandated to use its authority under section 179(a) to impose at least one sanction identified in section 179(b) in the affected nonattainment area(s). EPA also has discretionary authority under section 110(m) to impose sanctions based on the State's failure to make a required submittal. In addition, section 110(c) of the CAA provides that EPA promulgate a FIP no later than 2 years after a finding under section 179(a).

Those submittals that have been made are currently under review by EPA for completeness under section 110(k). In the event that any submittal is determined to be incomplete or not approvable, the sanctions and FIP processes will start at the time EPA makes its incompleteness determination or upon final disapproval.

Once EPA has made a finding of failure to submit a required SIP revision or plan element, determined a submittal to be incomplete or disapproved a submitted plan, EPA will not impose mandatory sanctions if within 18 months after the date of the finding or disapproval EPA finds that the State has submitted a complete plan or, in the case of a disapproval, EPA takes final approval action on submitted corrections to the deficiencies for which the plan was disapproved. The EPA will not promulgate a FIP if the State cures the deficiency and EPA takes final action to approve the SIP within 2 years of EPA's finding.

On November 15, 1993, Arthur A. Davis, Secretary of Commonwealth of Pennsylvania Department of Environmental Resources and your duly delegated designee, submitted a request for approval of the Commonwealth's Title V Operating Permits Program. That submittal has been reviewed for completeness with respect to the requirements specified in 40 CFR Section 70.4. EPA has found the Commonwealth's November 15, 1993 submittal to be incomplete. Therefore, as of November 15, 1993, the mandatory sanctions clocks have commenced in the Commonwealth of Pennsylvania for failure to submit a complete Title V Operating Permits Program.

Under the CAA, EPA is required to impose one of the sanctions described in section 179(b) of the Act in the Commonwealth of Pennsylvania if a complete Title V Operating Permits Program has not been submitted by May 15, 1995. The sanctions are a 2 for 1 emissions offset ratio in nonattainment


areas for construction of new and modified sources, and a cutoff of Federal funding for certain highway projects. The statute requires the second sanction to be imposed by November 15, 1995 if a complete submittal has not been received. EPA will propose a national sanctions policy for Title V prior to imposing either of the mandatory sanctions.

It should be noted that the EPA has authority to impose either sanction prior to May 1995, following public notice and opportunity for comment, if the circumstances in a particular state for locality warrant such action. EPA is also required by law to required to implement a federal operating permits program by November 15, 1995 if a State or locality does not have an approved Operating Permits Program.

I emphasize that the findings of Pennsylvania's failure to submit a program or Pennsylvania's submittal of an incomplete program imply no judgement as to State intent; they are merely statements of fact that EPA is required to make under the CAA. EPA takes very seriously its responsibility to administer the CAA in a fair and just manner, and those findings are exercises of that responsibility.

I look forward to working closely with you and your staff to ensure that the CAA's requirements are met in a timely and effective manner without adverse consequences.

Sincerely yours,



Stanley L. Laskowski
Acting Regional Administrator

Enclosure

cc: Arthur A. Davis, Secretary
Pennsylvania Department of Environmental Resources

Catherine W. Cowan, Deputy Secretary
Air and Waste Management

James M. Salvaggio, Director
Bureau of Air Quality Control

ENCLOSURE

Provided below is a list of the State Implementation Plan (SIP) elements required to be submitted by November 15, 1993 under the Clean Air Act. Information regarding the applicability of the status of Pennsylvania's submittals is provided. Where EPA is making a finding under section 179(a) for the failure of Pennsylvania to make a submittal or for Pennsylvania's failure to submit a complete plan or plan element for the plans or plan elements, these findings trigger the 18-month clock for the mandatory imposition of sanctions under 179(a). If the State makes a complete submittal within that 18-month period, the sanctions clock will be stopped.

15 PERCENT RATE-OF-PROGRESS PLAN

Where required in the Commonwealth of Pennsylvania: The Philadelphia, Pittsburgh, and Reading ozone nonattainment areas.

Status of required submittal: Under section 182(b)(1) the Commonwealth of Pennsylvania was required to submit a SIP revision by November 15, 1993, which describes, in part how the moderate and above areas will achieve an actual VOC emissions reduction of at least 15 percent during the first 6 years after enactment of the 1990 Amendment to the Act. In addition, the SIP must describe how any growth in emissions reductions from 1990 through 1996 will be fully offset. As of the date of this letter, the Commonwealth has not submitted a 15 percent rate-of-progress plan (RPP).

Under section 172(c)(9) the Commonwealth of Pennsylvania was required to adopt contingency measures for moderate and above areas by November 15, 1993. These measures would have to be implemented if the area fails to make reasonable further progress or to attain the national ambient air quality standards (NAAQS) by the applicable attainment date. The contingency measures generally must provide reductions of 3 percent of the emissions from the adjusted base year inventory. The reductions must be achieved in the year following that in which the failure has been identified. In an August 23, 1993 memorandum, EPA outlines the policy by which areas could substitute NOx measures for 2.7 percent of the 3 percent contingency measures. In addition, the memorandum explains the rationale for why a committal SIP for a portion of or all of the required 3 percent of the contingency measures would be acceptable. If Pennsylvania chooses to submit a committal SIP for the contingency measure requirement, all of the contingency measures must be fully adopted by November 15, 1994.

EPA has received a 15 percent RPP for Philadelphia but the submittal is incomplete because it does not contain fully adopted, permanent and enforceable regulations or control measures for which Pennsylvania is claiming emission reduction credit in its 15% RPP.

EPA has not received any of the elements required at this time pertaining to 15 percent RPP for the Pittsburgh and Reading nonattainment areas. It must be noted, that redesignation requests for the Pittsburgh and Reading nonattainment areas have been submitted by the Commonwealth and are pending before EPA.

Finding for Philadelphia: EPA is today making a finding that Pennsylvania failed to submit a complete 15% RPP for the Philadelphia nonattainment area.

Impacts on Transportation Conformity: This SIP submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by section 110(a)(2)(A) of the Clean Air Act. As a result, according to section 51.448(c)(1)(iii) of EPA's transportation conformity rule (58 FR 62188, November 24, 1993), new transportation plans and Transportation Improvement Programs (TIPs) may be found to conform, but the conformity status of the transportation plan and TIP in place at the time will lapse twelve months from today's incompleteness finding, unless another 15% RPP SIP is submitted to EPA and found complete.

Although non-federal projects do not require conformity determinations, recipients of federal funds under title 23 U.S.C. or the Federal Transit Act may not approve or adopt regionally significant non-federal projects in the absence of a conforming transportation plan and TIP. If the conformity status of the transportation plan and TIP lapses, the only projects that may proceed are: a) projects exempt from the conformity rule, b) projects which have completed all transportation plan, TIP, and project conformity determinations, and c) non-federal projects, which are not regionally significant or not sponsored or approved by a recipient of federal funds.

Finding for Pittsburgh and Reading: EPA is also making a finding today that Pennsylvania failed to submit the required 15% RPPs for the Pittsburgh and Reading ozone nonattainment areas. If the redesignation requests for the Pittsburgh and Reading nonattainment areas currently pending before EPA are approved, the sanctions clocks shall cease in these two areas.

Impacts on Transportation Conformity: Ordinarily, under section 51.448(b)(1) of EPA's transportation conformity rule (58 FR 62188), a finding of failure to submit the 15% rate of progress plans due for the nonattainment areas listed above would mean that no new transportation plans or TIPs may be found to conform beginning March 24, 1994. In addition, the conformity plans in place on March 24, 1994 would lapse November 25, 1994, unless the failure has been remedied and acknowledged by a letter from this office.

However, section 51.448(i) of the conformity rule provides that if the state has submitted a redesignation request and maintenance plan for the subject nonattainment area, and EPA has found the maintenance plan submittal to be complete, the maintenance plan shall be considered to have satisfied the conformity rule's requirement for a control strategy demonstration. As the Commonwealth of Pennsylvania has submitted complete maintenance plans for the Pittsburgh and Reading nonattainment areas, the findings of failure to submit the 15% RPP's do not impact Pennsylvania's ability to make conformity determinations for new TIPS in the Pittsburgh and Reading nonattainment areas.

ENHANCED INSPECTION AND MAINTENANCE

Where required in the Commonwealth of Pennsylvania: The ozone nonattainment areas of the Philadelphia Consolidated Metropolitan Statistical Area (CMSA), Pittsburgh CMSA, Reading CMSA, Allentown Metropolitan Statistical Area (MSA), Harrisburg MSA, Sharon MSA, Johnstown MSA, Altoona MSA, Erie MSA, Scranton MSA, York MSA, Lancaster MSA and in applicable counties of the MSAs in the remainder of the Commonwealth as part of the Ozone Transport Region, with the terms CMSA and MSA as defined in 1990 by the Office of Management and Budget.

Status of required submittals: Section 182(b)(4) of the CAA require states with moderate air quality problems to develop and submit a SIP revision for a basic I/M program. Section 182(c)(3) of the CAA requires states with serious and above air quality problems to develop and submit a SIP revision for an enhanced I/M program. Section 184(b)(1)(A) requires states in the ozone transport region containing a metropolitan statistical area or part thereof with a population of 100,000 or more, to submit a SIP revision for an enhanced I/M program. The federal I/M regulations were published as a final rule on November 5, 1992 (57 FR 52950, codified at 40 CFR 51.350-373). Section 51.372(b)(2) of the federal I/M regulation required affected states to submit full I/M SIP revisions that met the requirements of the CAA by November 15, 1993. As part of the Ozone Transport Region, Pennsylvania was required to submit to EPA an enhanced inspection and maintenance (I/M) program for all metropolitan statistical areas in its jurisdiction which meet the criteria specified in section 184(b)(1)(A).

Pennsylvania has submitted an enhanced I/M SIP for the areas listed above.

PARTICULATE MATTER CONTINGENCY MEASURES

Where required in the Commonwealth of Pennsylvania: Allegheny County, a moderate particulate matter (PM-10) nonattainment area.

Status of required submittals: Under section 172(c)(9) the Commonwealth of Pennsylvania was required to adopt contingency

measures for moderate and above areas by November 15, 1993. These measures must be submitted by November 15, 1993 for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the areas's control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM-10 NAAQS by the applicable statutory deadline.

Finding: EPA is today making a finding that Pennsylvania failed to submit the required contingency measures required for Allegheny County.

ATTAINMENT DEMONSTRATIONS FOR MODERATE AREAS

Where required in the Commonwealth of Pennsylvania: Moderate ozone nonattainment areas in Pennsylvania (Reading and Pittsburgh nonattainment areas).

Status of required submittals: Under section 182(b)(1), Pennsylvania was required to submit to EPA by November 15, 1993 a revision containing additional specific annual reductions in Volatile Organic Compound (VOC) and Nitrogen Oxides (NOx) emissions as necessary to attain the national primary ambient air quality standard for ozone for all intrastate ozone nonattainment areas classified as moderate. If Pennsylvania chose to use photochemical grid modelling, EPA must have approved the request and the modelling protocol by November 15, 1993 that included a commitment, with schedule, to complete the modelling and submit by November 15, 1994 the completed modelling and rules for additional controls of VOC and NOx needed for attainment.

DER has requested, and EPA has agreed, to include the Reading ozone nonattainment area in the Urban Airshed Modeling analysis being conducted for the Philadelphia severe ozone nonattainment area. DER has not made any such request for the Pittsburgh ozone nonattainment area. It must be noted that the Commonwealth has submitted a redesignation request for the Pittsburgh area which is pending before EPA.

Finding: EPA is today making a finding that Pennsylvania has failed to submit the required attainment demonstration or to request EPA approval to conduct Urban Airshed Modeling for the Pittsburgh moderate ozone nonattainment area. If the redesignation request for the Pittsburgh area currently pending before EPA is approved, the sanctions clocks will cease in this area.

Impacts on Transportation Conformity: Ordinarily, under section 51.448(b)(1) of EPA's transportation conformity rule (58 FR 62188), a finding of failure to submit the attainment demonstration due for the nonattainment areas listed above would mean that no new transportation plans or TIPs may be found to conform beginning March 24, 1994. In addition, the conformity

plan in place on March 24, 1994 would lapse November 25, 1994, unless the failure has been remedied and acknowledged by a letter from this office.

However, section 51.448(i) of the conformity rule provides that if the state has submitted a redesignation request and maintenance plan for the nonattainment area(s), and EPA has found the maintenance plan submittal to be complete, the maintenance plan shall be considered to have satisfied the conformity rule's requirement for a control strategy demonstration. As the Commonwealth of Pennsylvania has submitted complete maintenance plans for the area listed above, the finding of failure to submit the attainment demonstration does not impact Pennsylvania's ability to make conformity determinations for new TIPS in the Pittsburgh area.

PHOTOCHEMICAL ASSESSMENT MONITORING STATIONS (PAMS)

Where required in the Commonwealth of Pennsylvania: Philadelphia ozone nonattainment area.

Status of the required submittal: Section 182(c)(1) of the Act requires EPA to promulgate regulations for the enhanced monitoring of ozone and its precursors and for the affected States to incorporate the requirements as a part of their SIPs. Within 9 months after February 12, 1993, states are required to adopt and implement a program based on such rules to improve monitoring for ambient concentrations of ozone, oxides of nitrogen (NOx), and volatile organic compounds (VOC), and to improve improve monitoring of emissions of NOx and VOCs. Each SIP for the area shall contain measures to improve the ambient monitoring of such air pollutants.

Pennsylvania was required to submit a SIP revision to establish photochemical assessment monitoring stations (PAMS) as part of their SIP monitoring network in ozone nonattainment areas classified as serious and above (PAMS network is a subset of the State's SLAMS network for the purpose of enhanced monitoring in ozone nonattainment areas listed as serious and above). Also, section 184(d) requires that the best available air quality monitoring and modeling techniques be used in making determinations concerning the contribution of sources in one area to concentrations of ozone in another area which is a nonattainment area for ozone.

Finding: EPA is today making a finding that Pennsylvania failed to submit the required PAMS program for the Philadelphia nonattainment area.

TITLE V OPERATING PERMIT PROGRAM

The schedule for implementation of sanctions for Title V operating permit programs is slightly different than that described for those SIP elements which were also due on

November 15, 1993. EPA must impose the first sanction by May 15, 1995 if a complete program has not been submitted and the second sanction by November 15, 1995 if a complete submittal of the Title V program has still not been received. If the State makes a complete submittal before May 15, 1995, the sanctions clock will be stopped.

Where required in the Commonwealth of Pennsylvania: Statewide

Status of required submittals: The Clean Air Act, as amended in 1990 (Act), requires each State to submit an operating permit program to the Environmental Protection Agency (EPA) by November 15, 1993, as required in Title V and the implementing regulation at 40 CFR Part 70. On November 15, 1993, the EPA received from your designee, Arthur A. Davis, Secretary of Commonwealth of Pennsylvania Department of Environmental Resources, a request for approval of your Commonwealth's Title V operating permits program.

Finding: EPA has determined that Pennsylvania's Title V operating permit program submittal is incomplete. Therefore, the sanctions clocks for this program commenced on November 15, 1993.

Pennsylvania's program has been reviewed in accordance with 40 CFR Part 70. EPA finds that the following elements must be submitted in order to determine your program to be administratively and technically complete:

1. Final permitting regulations and evidence of their procedurally complete and correct adoption; copies if all relevant enabling legislation including those governing administrative procedure impact Part 70 program implementation.
2. Final Attorney General's legal opinion stating the Commonwealth has adequate authority to carry out all aspects of the program.
3. A transition plan for issuing the initial Title V permits during the first three (3) years after program approval.
4. Final fee demonstration and adequacy of personnel and funding for the Title V operating program.
5. A complete description of the compliance tracking and enforcement program and a commitment to submit enforcement information annually to EPA.
6. Formal commitment of implement provisions (which could include a commitment for future action) for Title IV (acid rain program), section 112 (air toxics program) an section 114(a)(3) and section 504(b) (enhanced monitoring program).

